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7  
8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF WASHINGTON

10  
11 LUIS TRUJILLO,

12 Plaintiff,

NO.

13 v.

14 MIDLAND CREDIT  
15 MANAGEMENT, INC., a Kansas  
16 corporation,

17 Defendant.

COMPLAINT AND DEMAND  
FOR JURY TRIAL

18  
19 I. INTRODUCTION

20 1. This is an action for damages brought by an individual  
21 consumer for Defendant's violations of the Fair Debt Collection Practices  
22 Act, 15 U.S.C. §1692, *et seq.* (hereinafter "FDCPA"), the Washington  
23 Collection Agency Act, Chapter 19.16 RCW (hereinafter "WCAA"), and the  
24  
25

1 Washington Consumer Protection Act, Chapter 19.86 RCW (hereinafter  
2 “WCPA”).  
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4

## 5 II. JURISDICTION AND VENUE

6 2. Jurisdiction of this Court arises under 15 U.S.C. §1692k(d), 28  
7 U.S.C. §1331, and supplement jurisdiction exists for the state law claims  
8 pursuant to 28 U.S.C. §1367.  
9

10 3. Venue in this District is proper in that the Plaintiff resides here,  
11 the Defendant transacts business here, and the conduct complained of  
12 occurred here.  
13  
14

## 15 III. PARTIES

16 4. Plaintiff, Luis Trujillo, is a natural person residing in the Eastern  
17 District of Washington, and is a “consumer” as that terms is defined by 15  
18 U.S.C. §1692a(3).  
19

20 5. Upon information and belief Defendant Midland Credit  
21 Management, Inc. (hereinafter “Defendant Midland”) is a Kansas  
22 corporation, is a collection agency operating from an address of 8875 Aero  
23 Drive, Suite 200, San Diego, CA 92123, is an out of state collection agency  
24 licensed with the Washington Department of Licensing, and is a “debt  
25

1 collector” as that term is defined by 15 U.S.C. §1692a(6).

2  
3  
4 **IV. FACTUAL ALLEGATIONS**

5 6. In or around October 2003 Plaintiff learned that he ex-wife,  
6 Genia Parsons Trujillo (a/k/a Yvonne Trujillo) fraudulently opened an Aspire  
7 Visa credit card account in his name, without his knowledge or consent.  
8 Genia Parsons Trujillo fraudulently used the Aspire Visa card without  
9 Plaintiff’s knowledge or consent primarily for personal, family, or household  
10 purposes. In so doing, Genia Parsons Trujillo incurred a “debt” as that term  
11 is defined by 15 U.S.C. §1692a(5).  
12  
13  
14

15 7. In October 2003, upon learning of the fraudulently opened  
16 Aspire Visa credit card, Plaintiff reported it to Aspire Visa and completed a  
17 Fraudulent Charge Affidavit as requested by Aspire Visa. He also filed a  
18 police report regarding the fraudulently opened and used credit card account.  
19

20 8. Sometime thereafter, the alleged debts were consigned, placed  
21 or otherwise transferred to Defendant Midland for collection from the  
22 Plaintiff.  
23

24 9. On March 4, 2008 attorney Heidi Noun of Northwest Justice  
25 Project wrote a letter to Defendant Midland informing it that Plaintiff was

1 represented by legal counsel, disputing the validity of the debt, instructing it  
2 not to contact Plaintiff, and directing all future communication to her.

3  
4 10. Despite having knowledge that Plaintiff was represented by  
5 legal counsel, Defendant Midland continued to place telephone calls to  
6 Plaintiff and send letters demanding payment to Plaintiff, including letters  
7 dated August 10, 2008 and September 4, 2008.  
8

9 11. On September 22, 2008, attorney Heidi Noun again wrote a  
10 letter to Defendant Midland disputing the validity of the debt, informing it  
11 that Plaintiff was represented by legal counsel, and instructing it to direct all  
12 communication to her.  
13

14  
15 12. Plaintiff received at least two more letters directly from  
16 Defendant Midland in 2008 and continued to receive telephone calls at home  
17 from Defendant Midland demanding payment.  
18

19 13. Despite having knowledge that Plaintiff was represented by  
20 legal counsel Defendant Midland sent a letter to Plaintiff dated November 4,  
21 2008, titled "PRE-LEGAL NOTIFICATION" and containing a threat to take  
22 legal action against Plaintiff.  
23

24 14. On or about December 30, 2008, Plaintiff received a letter from  
25 the law firm Daniel N. Gordon, P.C. demanding payment and notifying

1 Plaintiff that the law firm had been retained with authority to file a lawsuit  
2 against him for the purported debt owed to Defendant Midland. That letter  
3 also contained notice of Plaintiff's right to dispute the debt and right to  
4 request debt verification.  
5

6 15. On January 14, 2009, attorney Heidi Noun sent a letter to Daniel  
7 N. Gordon, P.C. disputing the validity of the debt being attributed to Plaintiff  
8 and requesting verification of the debt.  
9

10 16. On or about January 16, 2009, attorney Heidi Noun received a  
11 letter from Daniel N. Gordon, P.C. requesting documentation from Plaintiff  
12 and providing a transaction history for the Aspire Visa credit card account.  
13  
14

15 17. On January 23, 2009 attorney Noun sent another letter to Daniel  
16 N. Gordon, P.C. providing the documents it requested and reiterating her  
17 request for a complete debt verification.  
18

19 18. Despite having knowledge that Plaintiff was represented by  
20 legal counsel Defendant Midland sent letters directly to Plaintiff dated April  
21 15, 2009 and April 23, 2009. Plaintiff also continued to receive numerous  
22 telephone calls from Defendant Midland in early 2009.  
23

24 19. In its letter dated April 15, 2009 to Plaintiff, Defendant Midland  
25 once again requested documentation supporting Plaintiff's dispute. On May

1 15, 2009 the undersigned counsel send a letter to Defendant Midland  
2 providing the requested documentation, disputing the validity of the debt,  
3 informing Defendant Midland that Plaintiff was represented by counsel, and  
4 requesting verification of the debt.  
5

6 20. To-date, neither Defendant Midland nor Daniel N. Gordon, P.C.  
7 have provided verification of the debt to the undersigned counsel or to  
8 attorney Heidi Noun.  
9

10 21. Despite having actual knowledge that he was represented by  
11 legal counsel with respect to this debt, Defendant Midland repeatedly called  
12 Plaintiff at home demanding payment throughout June, July, and August  
13 2009 and sent a letter directly to Plaintiff dated August 19, 2009.  
14

15 22. Plaintiff has suffered actual and statutory damages as a result of  
16 Defendant Midland's conduct.  
17  
18  
19

## 20 **V. FIRST CLAIM FOR RELIEF**

### 21 **Violation of §1692e of the Fair Debt Collection Practices Act –** 22 **Demanding Payment Of A Debt That Is Not Owed** 23

24 23. Plaintiff repeats and realleges paragraphs 1-22 above.

25 24. 15 U.S.C. §1692e(2)(A) of the Fair Debt Collection Practices

1 Act (FDCPA) prohibits a debt collector from using any false, deceptive or  
2 misleading representation or means in connection with the collection of a  
3 debt, including, but not limited to, the false representation of the character,  
4 amount or legal status of any debt.  
5

6 25. Defendant Midland attempted to collect a debt that is not owed  
7  
8 by Plaintiff in violation of 15 U.S.C. §1692e(2)(A).

9 26. 15 U.S.C. §1692e(5) of the FDCPA prohibits a debt collector  
10  
11 from threatening to take any action that cannot legally be taken or that is not  
12 intended to be taken.

13 27. Defendant Midland's "PRE-LEGAL NOTIFICATION" sent to  
14  
15 Plaintiff on or around November 4, 2008 constituted a threat to take an action  
16 that it could not legally take and/or it constituted a threat to take an action  
17 that it did not intend to take in violation of 15 U.S.C. §1692e(5).  
18

19 28. As a result of the foregoing violations of the FDCPA, Defendant  
20  
21 Midland is liable to the Plaintiff for actual and statutory damages, costs and  
22 attorney's fees.  
23  
24  
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**VI. SECOND CLAIM FOR RELIEF**

**Violation of §1692c(a)(2) of the Fair Debt Collection Practices Act –  
Communicating With A Consumer Represented By Counsel**

29. Plaintiff repeats and realleges paragraphs 1-28 above.

30. Section 1692c(a)(2) of the FDCPA prohibits a debt collector from communicating with a consumer if the debt collector knows the consumer is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address.

31. Defendant Midland was give notice three times that Plaintiff was represented by legal counsel with respect to the Aspire Visa card debt.

32. Despite having knowledge that Plaintiff was represented by legal counsel with respect to the Aspire Visa card debt, Defendant Midland continued to communicate directly with Plaintiff by mail and telephone in violation of §1692c(a)(2) of the FDCPA.

33. As a result of the foregoing violations of the FDCPA, Defendant Midland is liable to the Plaintiff for actual and statutory damages, costs and attorney's fees.



**VII. THIRD CLAIM FOR RELIEF**

**Violation of Chapter 19.16 R.C.W. –**

**The Washington Collection Agency Act**

34. Plaintiff repeats and realleges paragraphs 1-33 above.

35. Revised Code of Washington (RCW) 19.16.250(11) prohibits an out of state collection agency from communicating with a debtor after notification in writing from an attorney representing such debtor that all further communications relative to a claim should be addressed to the attorney.

36. Defendant Midland was give notice three times that Plaintiff was represented by legal counsel with respect to the Aspire Visa credit card debt.

37. Despite having knowledge that Plaintiff was represented by legal counsel with respect to the Aspire Visa credit card debt, Defendant Midland continued to communicate directly with Plaintiff by mail and telephone in violation of RCW 19.16.250(11) of the Washington Collection Agency Act (WCAA).

**VIII. FOURTH CLAIM FOR RELIEF**

**Violation of Chapter 19.86 R.C.W. -**

**The Washington Consumer Protection Act**

38. Plaintiff repeats and realleges paragraphs 1-37 above.

39. RCW 19.16.440 declares that the commission of an act or practice prohibited by RCW 19.16.250 is an unfair act or practice or unfair method of competition in the conduct of trade or commerce for purposes of the Washington Consumer Protection Act found in Chapter 19.86 RCW.

40. Defendant Midland committed a per se unfair act or practice in the conduct of trade or commerce that was injurious to the public interest in that it was part of a pattern of conduct that has a real and substantial potential for repetition and potential to affect many consumers.

41. As a direct and proximate result of Defendant Midland's conduct Plaintiff suffered injury.

42. As a result of Defendant Midland's violations of the Washington Consumer Protection Act Defendant Midland is liable to the Plaintiff for treble damages, costs and attorney's fees.

**IX. DEMAND FOR JURY**

43. Plaintiff demands trial by jury on all counts and issues so triable.

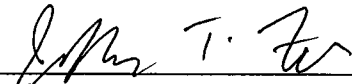
**X. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests the following relief:

1. A finding that Defendant Midland violated §§1692e and 1692c(a)(2) of the Fair Debt Collection Practices Act;
2. A finding that Defendant Midland violated the Washington Collection Agency Act, Chapter 19.16 RCW;
3. A finding that Defendant Midland violated the Washington Consumer Protection Agency Act, Chapter 19.86 RCW;
4. An award in favor of Plaintiff for damages, including, but not limited to;
  - a. Actual damages pursuant to 15 U.S.C. §1692k(a)(1);
  - b. Statutory damages of \$1,000.00 for each violation of the FDCPA pursuant to 15 U.S.C. §1692k(a)(2)(A);
  - c. Treble damages pursuant to R.C.W. 19.86.090;
  - d. Attorney's fees and costs of suit;
  - e. All other general and special damages as may be proven.
5. An award of such other relief as the Court may deem just and equitable.

1  
2 DATED this 27<sup>th</sup> day of August, 2009.

3  
4 Fehr Law Office, PLLC

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6   
7 Jeffrey T. Fehr, WSBA# 32741  
8 Attorney for Plaintiff

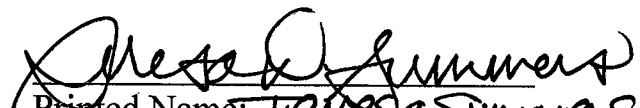
9  
10 STATE OF WASHINGTON }  
11 COUNTY OF CHELAN } ss.

12 Luis Trujillo, being first duly sworn on oath, deposes and says: That he is  
13 the plaintiff herein, that he has read the above and foregoing Complaint, knows  
14 the contents thereof and believes the same to be true and correct.

15  
16  
17   
18 LUIS TRUJILLO

19 SUBSCRIBED AND SWORN to before me this 27 day of August, 2009.



  
Printed Name: Teresa Summers  
NOTARY PUBLIC in and for the  
State of Washington. My Commission  
Expires: 9/22/09